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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,934	09/09/2003	Barry Wixey	TN-2347B	1594

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Adan Ayala, Esq.  
Black & Decker Inc.  
701 E. Joppa Road, TW-199  
Towson, MD 21286

EXAMINER

SELF, SHELLEY M

ART UNIT

PAPER NUMBER

3725

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No. 10/657,934	Applicant(s) WIXEY ET AL.	
	Examiner Shelley Self	Art Unit 3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Drawings*

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because

- reference character “406” (fig. 3A) has been used to designate both *plate* and *column*
- reference character “52” has been used to designate body (pg. 7, line 11), clamping knife (pg. 7, line 16) and clamp (pg. 7, line 19).

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 120 (fig. 4B).

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Specification*

The disclosure is objected to because it is not clear what the following means:

“[WHY? NEED REASONS HERE!!] (pg. 14, line 8)

“[WHY DO WE DO THIS? NEED EXPLANATION11]” (pg. 15, line 7)

“[WHY DO WE DO THIS? NEED EXPLANTION !! ALSO WHY THE DIFFERENCE  
IN DISTANCES CA AND CB??]” (pg. 15, line 12)

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With regard to the claim, it is unclear what the speed selector handle is controlling, i.e. the speed of what?

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 10, 11, 13, 19 and 20 and claim 3 as best as can be understood are rejected under 35 U.S.C. 102(b) as being anticipated by Welsh (5,771,949). Welsh discloses a power planer for planing a surface of a workpiece comprising a base assembly (24); a carriage assembly (26) disposed above the base assembly (fig. 1), the carriage assembly comprising a cutter head

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assembly (54), the carriage assembly being vertically movable (col. 6, lines 17-25) to change distance between the base assembly and the carriage assembly; a hand crank (96) attached to the carriage assembly for changing the distance between the base assembly and the carriage assembly (col. 6, lines 36-40); a material removal gauge (370) disposed on the carriage assembly (fig. 1); a switch (72) disposed on the carriage assembly; and a height scale (106) disposed on the base (Examiner notes that because the height scale is on side 16 which is on the base 24, the scale is also on the base via the side) wherein the material removal gauge, switch and height scale are on the front side of the planer and the hand crank (96) is substantially on the front half of the planer (fig. 1).

With regard to claim 3, as best as can be understood, Welsh discloses a handles (30, 96, 112).

With regard to claim 4, Welsh discloses a carriage height mechanism (fig. 1) disposed on the carriage assembly and disposed on the front half of the power planer.

With regard to claim 10, Welsh discloses the cutterhead assembly (54) being coupled to a transmission (78) a first roller (76) assembly driving connected to the transmission, a second roller (76) assembly drivingly connected to the first roller assembly.

With regard to claim 11, Welsh discloses the first roller (76) assembly driving connected to the transmission via a chain (80; fig. 1).

With regard to claim 13, Welsh discloses the second roller assembly drivingly connected to the first roller assembly via a chain (80; fig. 1).

With regard to claim 19 and 20, Welsh discloses at least one guide post (82), the carriage assembly comprising at least one nut assembly (96; fig 2, 3) threadingly engaging the

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corresponding at least one guide post (100) a motor, cutter head, hand crank, material removal gauge, switch, height scale; wherein the at least one nut assembly comprises a main body threading engaging the corresponding at least one guide post (100) a lower plate threadingly engaging the corresponding at least one guide post, at least one screw (figs. 2, 3; with reference to the left portion of each drawing and connection and arrangement of the post 100 to the carriage 26 and top of planar) extending through the lower plate and threadingly engaging the main body, and a spring (104) disposed between the main body and the lower plate and bearing (fig. 2).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Welsh (5,771,949) alone. With regard to claim 2, Welsh does not disclose the switch and hand crank to be on the same side half. It would have been obvious at the time of the invention to one having ordinary skill in the art to construct Welsh having the switch and hand crank on the same side half, because the mere rearrangement of parts of an invention involves only routine skill in the art and does not in itself impart patentability. See *In re Japikse*, 86 USPQ 70.

With regard to claim 15, as noted above Welsh discloses a planer comprising base, carriage, cutterhead, hand crank, material removal gauge, switch and height scale. Welsh also

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discloses a cutterhead having first and second roller assemblies (76; fig. 1) with first and second springs disposed between the carriage assembly and first roller assembly and third and fourth springs disposed between the carriage assembly and second roller assembly (fig. 1). Welsh does not disclose the first and third springs provided unequal forces. It would have been obvious at the time of the invention to one having ordinary skill in the art to construct Welsh having first and second springs of unequal forces because discovering the optimum value of a result effective variable involves only routine skill in the art. Further Applicant has not stated that such differences in spring forces creates any unobvious or unexpected result. See *In re Boesch*, 617 F.2d 272, 205, USPQ 215 (CCPA 1980).

Claims 5-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Welsh (5,771,949) in view of Buttke (2,792,036). With regard to claims 5 and 9, as noted above, Welsh discloses a power planer comprising a base, carriage cutter head, hand crank, material removal gauge, switch and height scale. Welsh also discloses the cutterhead having main body. Welsh does not disclose three knives disposed on the main body. Buttke teaches in a similar art a planar having a cutterhead with a main body wherein three knives are disposed on the main body (fig. 27). Buttke teaches this construction for consistent surfacing of the work piece surface. Because the references are from a similar art, it would have been obvious at the time of the invention to one having ordinary skill in the art to replace Welsh's single blade cutterhead with a cutterhead having three knives for improved surfacing of the work piece as taught by Buttke.

As to one of the knives being locked in a horizontal position (clm. 9), Welsh discloses the locking mechanism for locking the cutterhead and carriage at any desired position, therefore the ability to so lock the knife/blade at a horizontal position.

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With regard to claims 6 and 7 Welsh discloses at least six screws (60).

With regard to claim 8, Welsh discloses a cutterhead lock mechanism (172, 210, 240, 292, 310).

Claims 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Welsh (5,771,949) in view of Garcia (5,957,173). Welsh does not disclose a chain tensioner. Garcia teaches in a similar art a power planar comprising a vertically adjustable cutterhead, carriage, cutter/knives/blade, first and second roller assemblies (90,92) rotatably driving connected to the cutter via a chain, the chain being engaged to a gear reduction box to control the desired speed of the rollers (col. 7, lines 26-42) and a chain tensioner (83,63). Examiner notes that Garcia's pulleys (83,63) act as a tensioner on the chain so as to increase force on the chain for synchronized rotation of the rollers. Garcia teaches this construction so as to reduce snipping (col. 6, lines 48-61). Because the references are from a similar art and deal with a similar problem (i.e. feeding the work piece to the cutter) it would have been obvious at the time of the invention to one having ordinary skill in the art to replace, Welsh's roller assemblies with roller assemblies incorporating a chain tensioner as taught by Garcia for improves synchronized rotation of the rollers for efficient feeding of the work piece and reduced snipping.

Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Welsh (5,771,949) alone or in view of Chen (5,988,239). Welsh does not disclose the first and second roller assembly lower than the cutterhead or the first roller assembly lower than the second roller assembly. It would have been obvious at the time of the invention to one having ordinary skill in



the art to construct Welsh having the first and second roller assemblies lower than the cutterhead or the first roller assembly lower than the second because mere rearrangement of parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70.

Moreover, Chen teaches in a similar art a planer having a cutter head, first and second roller assemblies rotatably drivingly connected to the cutterhead via a chain and transmission so as to synchronize the rotation of the rollers. Chen teaches the roller assemblies to be lower than the cutterhead for efficient feeding of a work piece. Because the references are from a similar art and deal with a similar problem (i.e., feeding a work piece for planing) it would have been obvious at the time of the invention to one having ordinary skill in the art to construct Welsh such that the roller assemblies were lower than the cutterhead for improved feeding of a work piece for planing as taught by Chen.

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelley Self whose telephone number is (571) 272-4524. The examiner can normally be reached Mon-Fri from 8:30am to 5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Derris Banks can be reached at (571) 272-4419. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIE or Public PAIR. Status information for unpublished

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applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SSelf

March 2, 2005



DERRIS H. BANKS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700